

Minutes of the Kansas Sentencing Commission Meeting January 8, 2004

Vice Chairman Paul Morrison called the Kansas Sentencing Commission meeting to order on January 8, 2004, at 1:35 p.m. The meeting was held in the Florentine Room of the Jayhawk Tower Building, Topeka, KS.

Attendance

Members: Honorable Ernest L. Johnson, Chairman; Paul Morrison, District Attorney, Vice Chairman; Honorable Eric Rosen; Honorable Robert J. Lewis, Jr.; Senator Greta Goodwin; Representative Janice Pauls; Representative Jeff Goering; Roger Werholtz, Secretary of Corrections; Annie Grevas, Director of Community Corrections, 28th Judicial District; Marilyn Scafe, Kansas Parole Board; Chris Mechler, Office of Judicial Administration; Rick Kittel, Board of Indigents' Defense Services; Kevin Graham, Designee for Office of Attorney General; Kathleen Lynch, Private Defense Attorney; Jaime Richardson, Public Member; Dr. Donald Jackson, Public Member. Staff: Patricia Biggs, Executive Director; Kunlun Chang, Research Director; Fengfang Lu, Research Analyst; Lora Moison, Research Analyst; Janice Brasher, Grant Administrator; Brenda Harmon, Administrative Assistant; Julia Butler, Staff Attorney. Guest: Eric Weslander, Reporter, Lawrence Journal-World.

Approval of the Minutes

Vice Chair Morrison referred to the minutes of the November 13, 2003, Kansas Sentencing Commission meeting and asked for a motion to approve. A motion was made by Ms. Annie Grevas, and seconded by Ms. Chris Mechler, to approve the minutes of the November 13, 2003, Kansas Sentencing Commission meeting. The motion carried.

Legislative Post Audit of Sentencing Commission

Ms. Patricia Biggs reported the Legislative Post Audit has been completed. The Kansas Sentencing Commission was compared to about eight other Sentencing Commissions. The committee received the report very favorably.

Audit/Analysis of Guidelines

Ms. Biggs discussed the status of the Audit/Analysis of Sentencing Guidelines. She recently spoke with VERA Institute staff, and they are checking on the potential for some kind of grant funding. She will be visiting with Senator John Vratil about the overlap for the direction given to include items about the historical progression of the guidelines in the Report to the Legislature, verses what the audit and the analysis actually should accomplish.

Senate Bill 123 Implemented

Ms. Biggs provided an update on the completed implementation for SB 123. Items discussed were as follows:

Update on Activity Regarding Bill Payment Process

To date there have been 39 assessments completed. There has been one instance of individual outpatient treatment and one instance of group outpatient treatment, with a total of 39 individuals being served. \$6,910 has been disbursed back to treatment agencies. That covers 12 community corrections agencies and 11 individual treatment agencies. No funds have been received to date for offender reimbursement, nor for any insurance proceeds.

Community Corrections Plan Revisions

Two Community Corrections agencies have requested to submit revised Plans, to include their treatment budget and supervision budget under SB 123. One was denied due to inclusion of inappropriate items under treatment; one is waiting to be received by the Kansas Sentencing Commission office.

Sentencing for Career Property Offenders

Vice Chair Morrison discussed concerns many attorneys have shared with him about property offenders that continue to commit multiple offenses, only to receive probation as specified by the Sentencing Guideline range. The mission statement for the Sentencing Guidelines states prisons should be primarily reserved for violent offenders. The population of state prisons has dramatically changed over the last ten years; from a majority of inmates in for property offenses to today, with the majority of offenders in prison for violent and sex crimes. This is what the Legislature intended.

Ms. Biggs provided data to show what the impact would be if a career property offender with at least eight previous property offenses would change to carry a criminal history category of “B” so a prison sentence would not be a departure. It showed less than a 100-bed impact over the next 10-year period. Judges presently have the discretion to use departure sentences to make enhanced penalties for offenders with multiple convictions of property offenses. A decision was made by Commission members to not take further action at this time.

Commission members discussed the issue of whether “attempt,” “conspiracy,” or “solicitation” to commit the specified SB 123 crimes constitutes a conviction that requires treatment. There is concern about the more serious cases that are plea-bargained down to attempt, conspiracy or solicitation. A motion was made by Vice Chair Paul Morrison and seconded by Ms. Kathleen Lynch to have Chair Ernest Johnson follow up with legislatures to see if they’re interested in cleaning up this issue of concern. The motion carried.

Juvenile Population Projections

Ms. Biggs gave a slide presentation of the completed Juvenile Correctional Facilities Population Projections for FY 2004 to FY 2013. The JJA instituted a Placement Matrix in 1999, which in general concept is similar to the Sentencing Guidelines. Since its implementation, the admissions of juveniles to correctional facilities have dropped 56%.

A motion was made by Mr. Kevin Graham and seconded by Ms. Kathleen Lynch to approve the draft of the Kansas Juvenile Justice Authority Report. The motion carried.

Report to the Legislature

Ms. Biggs discussed an outline of the FY 2004 Report to the Legislature, due February 1st. The outline was prepared following discussion by Commission members at the November Commission meeting. Mr. Kevin Graham moved to include issues of concern involving the Sentencing Guidelines in the Report. Following a discussion by Commission members, it fell for lack of second.

Data Requests

Ms. Biggs provided an update on the status of the data request received from Sanford Gordon. Professor Gordon has agreed to the fees the Commission proposed. The data request is in the process of being completed.

A data request has been completed for the Attorney General's Office, which requested a listing of each statute number and the number of convictions.

Review and Approve Annual Report

Ms. Biggs and Commission members discussed the FY 2003 Annual Report. A motion was made by Representative Janice Pauls and seconded by Representative Jeff Goering to approve the draft of the FY 2003 Kansas Sentencing Commission Annual Report. The motion carried.

Staff Changes

Ms. Biggs introduced Julia Butler, staff attorney for the Kansas Sentencing Commission. She joined the Commission staff in December. Prior to joining the staff, she had been at the Disciplinary Administrator's office.

The Commission has two positions currently open. The Accountant II position is predominantly responsible for bill paying and tracking of payments for SB 123 treatment. A temporary Research Analyst position has been reposted. This position is funded primarily through grant funds from JJA to do their projections.

Other Business

Vice Chair Morrison announced that Senator John Vratil and Chair Ernest Johnson received the Kansas National Drug and Alcoholism Council Public Service Award in December. This award was presented for their efforts with Senate Bill 123.

Next Meeting

The next Kansas Sentencing Commission meeting was scheduled for Friday, February 13th, 2004, at 1:30 p.m.

The Chairman adjourned the meeting.